

IN THE UNITED STATES FEDERAL DISTRICT COURT
FOR THE EASTERN DISTRICT OF PHILADELPHIA

| | | |
|------------------------|---|--------------|
| STEPHEN SCHUTTER | : | CIVIL ACTION |
| Plaintiff | : | No. 07-3823 |
| | : | |
| vs. | : | |
| | : | |
| DAVID HERSKOWITZ | : | |
| Defendant | : | |
| | : | |
| and | : | |
| | : | |
| PHILLIP BANKS | : | |
| Defendant | : | |
| Plaintiff/Counterclaim | : | JURY TRIAL |

RULE TO SHOW CAUSE

AND NOW, this day of ,2008, upon consideration of the Motion filed by Frank J. Marcone, Esquire, seeking leave to withdraw as counsel in the above captioned case, it is hereby ORDERED AND DECREED a Rule to Show Cause shall issue upon PHILIP BANKS at his address 405 Glen Arbor Court, King of Prussia, Pennsylvania 19406, directing him to address the Motion for Leave to Withdraw and to respond thereto. The Rule is Returnable on the ,day of ,2008.

By the Court:

David R. Strawbridge, Judge

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MOTION TO WITHDRAW AS COUNSEL

Frank J. Marcone, Esquire, files this Motion seeking leave to withdraw as counsel in the above captioned matter and in support of said Motion avers the following:

1. Due to a recent disagreement with Philip Banks, Frank J. Marcone, Esquire believes and therefore avers that he is henceforth unable to continue to properly represent Philip Banks in the above captioned matter. The disagreement has resulted in an irrevocable break down in the lawyer/client relationship. After proper reflection Frank J. Marcone, Esquire, believes withdrawing as counsel is both appropriate and necessary.

2. Further, on March 17, 2008, opposing counsel began a series of personal attacks upon Frank J. Marcone, Esquire which were personally demeaning and blatant efforts to lie to the Courts. Those personal attacks have continued unabated and have resulted in decisions by the Court which leads Frank J. Marcone to believe his presence in this case will work to the detriment of Philip Banks. Philip Banks agrees.

3. Frank J. Marcone, Esquire, has had a discussion with Philip Banks wherein he disclosed it was his intention to withdraw and Mr. Banks agreed.

4. The personal attacks have worked a physical and psychological detriment upon Frank J. Marcone, Esquire which has prevented him from completing work necessary to protect the interests of his many clients, unrelated to this case.

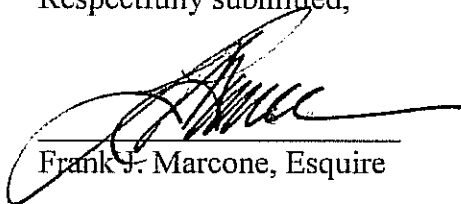
5. Frank J. Marcone is filing a Motion seeking to have opposing counsel held in contempt and also seeking an Order disqualifying opposing counsel for the blatant lies contained in the personal attacks which were unwarranted and which it is believed were motivated by avarice and malice have nonetheless had a detrimental personal affect upon Frank J. Marcone.

6. The continued representation would be very uncomfortable due to content of the disagreement which must remain privileged as a client/lawyer confidential communication.

7. The above constitute sufficient grounds to grant a Motion to Withdraw.

WHEREFORE, Frank J. Marcone, Esquire, respectfully prays the Court enter an Order permitting Frank J. Marcone, Esquire, to withdraw as counsel in the above captioned litigation.

Respectfully submitted,



Frank J. Marcone, Esquire

July 9, 2008

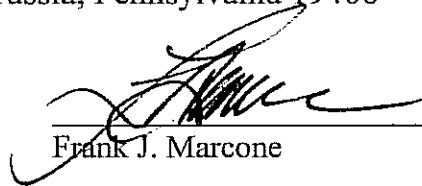
CERTIFICATE OF SERVICE

Frank J. Marcone, does hereby certify that by filing this Motion and proposed Order with a proposed Rule to Show Cause electronically, he has thereby effectively served a true and correct copy upon opposing counsel, namely,

James T. Loots, P.C.
Kelle Kilgariff, Esquire
Jay Herskowitz, Esquire

he has also caused a copy to be served upon Philip Banks by fax and by mail directly to his residence

Phillip Banks Real Estate
405 Glen Arbor Court
King of Prussia, Pennsylvania 19406



Frank J. Marcone

July 9, 2008